

(f) *UST Form 101–12–FR–C, Chapter 12 Case Trustee’s Final Report and Account, and UST Form 101–13–FR–C, Chapter 13 Case Trustee’s Final Report and Account.* After the final distribution to creditors in a chapter 12 or 13 case in which a case trustee has been appointed, the trustee must submit to the United States Trustee and file with the United States Bankruptcy Court either UST Form 101–12–FR–C for chapter 12 cases, or UST Form 101–13–FR–C for chapter 13 cases, which are the trustee’s final report and account. In these forms, a trustee must include a certification, submitted under penalty of perjury, that the estate has been fully administered if not converted to another chapter and the trustee’s request to be discharged from further duties as trustee. Pursuant to 28 U.S.C. 589b(d), these forms must also include the following information:

- (1) The length of time the case was pending;
- (2) Assets abandoned;
- (3) Assets exempted;
- (4) Receipts and disbursements of the estate;
- (5) Expenses of administration, including for use under section 707(b), actual costs of administering cases under chapter 12 or 13 (as applicable) of title 11;
- (6) Claims asserted;
- (7) Claims allowed;
- (8) Distributions to claimants and claims discharged without payment, in each case by appropriate category;
- (9) Date of confirmation of the plan;
- (10) Date of each modification thereto; and,
- (11) defaults by the debtor in performance under the plan.

(g) *Mandatory Usage of Uniform Forms.* The Uniform Forms associated with this rule must be utilized by trustees when completing their final reports and final accounts. All trustees serving in districts where a United States Trustee is serving must use the Uniform Forms in the administration of their cases, in the same manner, and with the same content, as set forth in this rule:

(1) All Uniform Forms may be electronically or mechanically reproduced so long as all the content and the form remain consistent with the Uniform

Forms as they are posted on EOUST’s Web site;

(2) The Uniform Forms shall be filed via the United States Bankruptcy Courts Case Management/Electronic Case Filing System (CM/ECF) as a “smart form” meaning the forms are data enabled, unless the court offers an automated process that has been approved by EOUST, such as the virtual NDR event through CM/ECF.

[73 FR 58444, Oct. 7, 2008]

§ 58.11 Procedures governing administrative review of a United States Trustee’s decision to deny a Chapter 12 or Chapter 13 standing Trustee’s claim of actual, necessary expenses.

(a) The following definitions apply to this section. These terms shall have these meanings:

(1) The term *claim of actual, necessary expenses* means the request by a chapter 12 or chapter 13 standing trustee for the United States Trustee’s approval of the trustee’s projected expenses for each fiscal year budget, or for an amendment to the current budget when an increase in an individual expense line item is greater than both 10% of the budgeted amount and \$5,000.00. Expenses for certain items require prior United States Trustee approval regardless of amount;

(2) The term *director* means the person designated or acting as the Director of the Executive Office for United States Trustees;

(3) The term *final decision* means the written determination issued by the Director based upon the review of the United States Trustee’s decision to deny all or part of a trustee’s claim of actual, necessary expenses;

(4) The term *notice* means the written communication from the United States Trustee to a trustee that the trustee’s claim of actual, necessary expenses has been denied in whole or in part;

(5) The term *request for review* means the written communication from a trustee to the Director seeking review of the United States Trustee’s decision to deny, in whole or in part, the trustee’s claim of actual, necessary expenses;

(6) The term *trustee* means an individual appointed by the United States

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Trustee under 28 U.S.C. 586(b) to serve as the standing trustee for chapter 12 or chapter 13 cases in a particular region; and

(7) The term *United States Trustee* means, alternatively:

(i) A United States Trustee appointed under 28 U.S.C. 581; or

(ii) A person acting as a United States Trustee under 28 U.S.C. 585.

(b) The United States Trustee may issue a decision to deny a trustee's claim of actual, necessary expenses. Reasons for denial include, but are not limited to, finding that the trustee failed to do any of the following:

(1) Provide to the United States Trustee sufficient justification for the expense;

(2) Demonstrate to the United States Trustee that the expense is a cost effective use of funds;

(3) Demonstrate to the United States Trustee that the expense is reasonably related to the duties of the trustee;

(4) Obtain authorization from the United States Trustee prior to making an expenditure that was not provided for in the current budget;

(5) Provide the United States Trustee with documents, materials, or other information pertaining to the expense;

(6) Timely submit to the United States Trustee accurate budgets or requests for amendment of budgets to cover the additional expense; or

(7) Demonstrate to the United States Trustee that the expense is directly related to office operations.

(c) Before issuing a notice of denial, the United States Trustee shall communicate in writing with the trustee in an attempt to resolve any dispute over a claim of actual, necessary expenses:

(1) For disputes involving the trustee's projected expenses for the upcoming fiscal year budget, the United States Trustee shall either resolve the dispute or issue a notice of denial no later than July 30 of the current calendar year for a chapter 12 standing trustee or October 31 of the current calendar year for a chapter 13 standing trustee, or if the United States Trustee has requested additional information, 30 calendar days from submission of the additional information if such submission is after July 1 for a chapter 12 standing trustee or October 1 for a

chapter 13 standing trustee, unless the trustee and United States Trustee agree to a longer period of time. Any projected expenses not specifically disputed shall be approved in the ordinary course and the trustee's fee shall be set on an interim basis;

(2) For disputes over amendments to the current year budget, the United States Trustee shall either resolve the dispute or issue a notice of denial no later than 30 calendar days after the trustee's amendment request, or if the United States Trustee has requested additional information, 30 calendar days from submission of the additional information, unless the trustee and the United States Trustee agree to a longer period of time. Any portion of the amendment not specifically disputed shall be approved in the ordinary course;

(3) If the United States Trustee does not resolve the dispute or issue a notice of denial within the time frames identified in (c)(1) or (2) of this section, the trustee's claim of actual, necessary expenses shall be deemed denied on the next business day following expiration of the time frames identified in (c)(1) or (2) of this section.

(d) The United States Trustee shall notify a trustee in writing of any decision denying a trustee's claim of actual, necessary expenses. The notice shall state the reason(s) for the decision and shall reference any documents or communications relied upon in reaching the decision. The United States Trustee shall provide to the trustee copies of any such non-privileged documents that were not supplied to the United States Trustee by the trustee. The notice shall be sent to the trustee by overnight courier, for delivery the next business day.

(e) The notice shall advise the trustee that the decision is final and unreviewable unless the trustee requests in writing a review by the Director no later than 21 calendar days from the date of the notice to the trustee. If the United States Trustee did not issue a notice of denial, and the expenses were deemed denied under (c)(3) of this section, the trustee shall have 21 calendar days from the date on which the expenses were deemed denied to submit a request for review to the Director.

(f) The decision to deny a trustee's claim of actual, necessary expenses shall take effect upon the expiration of a trustee's time to seek review from the Director or, if the trustee timely seeks such review, upon the issuance of a final decision by the Director.

(g) The trustee's request for review shall be in writing and shall fully describe why the trustee disagrees with the United States Trustee's decision, and shall be accompanied by all documents and materials the trustee wants the Director to consider in reviewing the United States Trustee's decision. The trustee shall send the original and one copy of the request for review, including all accompanying documents and materials, to the Office of the Director by overnight courier, for delivery the next business day. In order to be timely, a request for review shall be received at the Office of the Director no later than 21 calendar days from the date of the notice to the trustee or the date the expenses were deemed denied. The trustee shall also send a copy of the request for review to the United States Trustee by overnight courier, for delivery the next business day.

(h) The United States Trustee shall have 21 calendar days from the date of the trustee's request for review to submit to the Director a written response regarding the matters raised in the trustee's request for review. The United States Trustee shall provide a copy of this response to the trustee by overnight courier, for delivery the next business day.

(i) The Director may seek additional non-privileged information from any party, in the manner and to the extent the Director deems appropriate.

(j) In reviewing the decision to deny a trustee's claim of actual, necessary expenses, the Director shall determine:

(1) Whether the decision is supported by the record; and

(2) Whether the decision constitutes an appropriate exercise of discretion.

(k) The Director shall issue a final decision no later than 90 calendar days from the receipt of the trustee's request for review, or, if the Director has requested additional information, 30 calendar days from submission of the additional information, unless the trustee agrees to a longer period of

time. The Director's final decision on the trustee's request for review shall constitute final agency action.

(l) In reaching a final decision the Director may specify a person to act as a reviewing official. The reviewing official may not be under the supervision of the United States Trustee who denied the trustee's claim of actual, necessary expenses. The reviewing official's duties shall be specified by the Director on a case-by-case basis, and may include reviewing the record, obtaining additional information from the participants, providing the Director with written recommendations, and such other duties as the Director shall prescribe in a particular case.

(m) This rule does not authorize a trustee to seek review of any decision to change maximum annual compensation, to decrease or increase appointments of trustees in a region or district, to change the trustee's percentage fee, or to suspend, terminate, or remove a trustee.

(n) A trustee must exhaust all administrative remedies before seeking redress in any court of competent jurisdiction.

[76 FR 31223, May 31, 2011]

§ 58.12 Definitions.

(a) The following definitions apply to §§ 58.12 through and including 58.24 of this Part and the applications and other materials agencies submit in an effort to establish they meet the requirements necessary to become an approved nonprofit budget and credit counseling agency.

(b) These terms shall have these meanings: (1) The term "accreditation" means the recognition or endorsement that an accrediting organization bestows upon an agency because the accrediting organization has determined the agency meets or exceeds all the accrediting organization's standards;

(2) The term "accrediting organization" means either an entity that provides accreditation to agencies or provides certification to counselors, provided, however, that an accrediting organization shall:

(i) Not be an agency or affiliate of any agency; and